



Health Care Availability and Access Committee

Adopted in House Comm. on Mar 06, 2007

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LRB095 05277 DRJ 32282 a

1 AMENDMENT TO HOUSE BILL 392

2 AMENDMENT NO. _____. Amend House Bill 392 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Nursing Care and Quality Improvement Act.

6 Section 5. Findings. The Legislature finds and declares all
7 of the following:

8 (1) The State of Illinois has a substantial interest in
9 promoting quality care and improving the delivery of health
10 care services to patients in health care facilities in the
11 State.

12 (2) Recent changes in the health care delivery systems
13 that have resulted in higher acuity levels among patients
14 in health care facilities increase the need for improved
15 safety measures in order to protect patient care and reduce
16 adverse events.

1 (3) Inadequate and poorly monitored registered nurse
2 staffing practices that result in too few registered nurses
3 providing direct care jeopardize the delivery of quality
4 health care.

5 (4) Numerous studies have shown that patient outcomes
6 are directly correlated to direct care registered nurse
7 staffing levels.

8 (5) Requirements for direct care registered nurse
9 staffing ratios will help address the registered nurse
10 shortage in Illinois by aiding in recruitment of new
11 registered nurses and improving retention of registered
12 nurses who are considering leaving direct patient care
13 because of the demands created by inadequate staffing.

14 (6) Establishing adequate minimum direct care
15 registered nurse-to-patient ratios that take into account
16 patient acuity measures will improve the delivery of
17 quality health care services and patient safety.

18 (7) Establishing safe staffing standards for direct
19 care registered nurses is a critical component of assuring
20 that there is adequate hospital staffing at all levels to
21 improve the delivery of quality care and protect patient
22 safety.

23 Section 10. Definitions. In this Act:

24 "Acuity system" means an established measurement tool that
25 does all of the following:

1 (1) Predicts nursing care requirements for individual
2 patients based on: the severity of the patient's illness;
3 the need for specialized equipment and technology; the
4 intensity and complexity of nursing interventions
5 required; the complexity of clinical nursing judgment
6 needed to design, implement, and evaluate the patient's
7 nursing care plan; the ability for self-care, including
8 motor, sensory, and cognitive deficits; and the licensure
9 required for care.

10 (2) Details the amount and complexity of nursing care
11 needed, both in number of nurses and in skill mix of
12 nursing personnel required, on a daily basis for each
13 patient in a nursing department or unit.

14 (3) Takes into consideration the patient care services
15 provided not only by registered nurses but also by direct
16 care licensed practical nurses and other health care
17 personnel.

18 (4) Is stated in terms that can be readily used and
19 understood by nurses.

20 "Department" means the Department of Public Health.

21 "Direct care registered nurse" means an individual who has
22 been granted a license to practice as a registered nurse and
23 who provides bedside care for one or more patients.

24 "Director" means the Director of Public Health.

25 "Employment" includes the provision of services under a
26 contract or other arrangement.

1 "Hospital" means an entity licensed under the Hospital
2 Licensing Act.

3 "Nurse" and "registered nurse" mean any person licensed as
4 a registered nurse or a registered professional nurse under the
5 Nursing and Advanced Practice Nursing Act.

6 "Staffing plan" means a staffing plan required under
7 Section 15 of this Act.

8 Section 15. Staffing plan required. Not later than one year
9 after the effective date of this Act, each hospital shall
10 implement a written staffing plan that (i) provides for safe,
11 therapeutic, and competent care services, (ii) protects
12 patient safety, and (iii) is consistent with the requirements
13 of this Act.

14 Section 20. Minimum direct care registered
15 nurse-to-patient ratios.

16 (a) For the purposes of this Section:

17 "Assigned" means that the registered nurse has
18 responsibility for the provision of care to a particular
19 patient within his or her scope of practice.

20 "Declared state of emergency" means a state of emergency
21 that has been declared by the federal government or the head of
22 the appropriate State or local governmental agency having
23 authority to declare that the State, county, municipality, or
24 locality is in a state of emergency, but does not include

1 consistent understaffing.

2 (b) A hospital's staffing plan shall provide that, during
3 each shift within a unit of the hospital, a direct care
4 registered nurse shall not be assigned to more than the
5 following number of patients in that unit:

6 (1) One patient in operating room units, trauma
7 emergency units, and for patients receiving conscious
8 sedation, at all times.

9 (2) Two patients in critical care units, including
10 emergency critical care and intensive care units, newborn
11 intensive care units, labor and delivery units, and
12 post-anesthesia units at all times.

13 (3) Three patients in ante-partum units, emergency
14 room units, pediatrics units, step-down units, and
15 telemetry units at all times.

16 (4) Four patients in intermediate care nursery units,
17 specialty care units, medical/surgical units, postpartum
18 (mothers only) units, and acute care psychiatric units at
19 all times.

20 (5) Five patients in rehabilitation units, skilled
21 nursing units, and well-baby nursery units at all times.

22 (6) Six patients in postpartum (3 couplets) units and
23 well-baby nursery units at all times.

24 Registered nurse-to-patient ratios represent the maximum
25 number of patients who may be assigned to one registered nurse
26 at any one time. There shall be no averaging of the number of

1 patients and the total number of registered nurses on the unit
2 during any one shift nor over any period of time. The
3 registered nurse-to-patient ratio must be maintained at all
4 times throughout each shift. Only nurses providing direct
5 patient care shall be included in the ratios.

6 Staffing for care not requiring a registered nurse is not
7 included within these ratios. Additional staff in excess of
8 these prescribed ratios, including non-licensed staff, shall
9 be assigned in accordance with the hospital's documented
10 patient acuity system for determining nursing care
11 requirements, considering factors that include the severity of
12 the illness, the need for specialized equipment and technology,
13 the complexity of clinical judgment needed to design,
14 implement, and evaluate the patient care plan, the ability for
15 self-care, and the licensure of the personnel required for
16 care.

17 Nurse administrators, nurse supervisors, nurse managers,
18 charge nurses, and other licensed nurses shall be included in
19 the calculation of the licensed nurse-to-patient ratio only
20 when those licensed nurses are engaged in providing direct
21 patient care. When a nurse administrator, nurse supervisor,
22 nurse manager, charge nurse, or other licensed nurse is engaged
23 in activities other than direct patient care, that nurse shall
24 not be included in the calculation of the ratio. Nurse
25 administrators, nurse supervisors, nurse managers, and charge
26 nurses who have demonstrated current competence to the hospital

1 in providing care on a particular unit may relieve nurses
2 during breaks, meals, and other routine, expected absences from
3 the unit.

4 (c) The names used to identify clinical units in subsection
5 (b) reflect common usage and understanding. Each identified
6 unit provides care to distinct patient types and conditions;
7 each unit provides nursing care in accordance with general
8 direct care registered nursing practice standards and
9 unit-specific standards and competency requirements; and
10 direct care registered nurse staffing levels for each shift in
11 each unit are determined on the basis of patient assessments
12 performed by direct care registered nurses with demonstrated
13 competency on the unit and in accordance with unit-specific
14 standards regarding nursing care requirements for patients
15 served by the unit. These unit-specific characteristics
16 determine the applicable minimum direct care registered
17 nurse-to-patient staffing ratio for each unit.

18 (d) Identifying a unit by a name or term other than those
19 used in subsection (b) does not affect the requirement to staff
20 at the direct care registered nurse-to-patient ratios
21 identified for the level of intensity or type of care described
22 in this Section.

23 (e) Patients shall be cared for only on units where the
24 level of intensity, type of care, and direct care registered
25 nurse-to-patients ratios meet the individual requirements and
26 needs of each patient.

1 (f) Within one year after the effective date of this Act,
2 the Department shall adopt rules providing specific guidance on
3 the implementation of the minimum direct care registered
4 nurse-to-patient ratios. The Department shall adopt these
5 rules in accordance with the Department's licensing and
6 certification rules and other professional and vocational
7 rules under Illinois law.

8 (g) The Director may apply minimum direct care registered
9 nurse-to-patient ratios established in subsection (b) of this
10 Section to a type of hospital unit not referred to in that
11 subsection (b) if that other unit performs a function similar
12 to the function performed by the unit referred to in subsection
13 (b).

14 (h) If necessary to protect patient safety, the Director
15 may prescribe regulations that (i) increase minimum direct care
16 registered nurse-to-patient ratios under this Section to
17 further limit the number of patients that may be assigned to
18 each direct care nurse or (ii) add minimum direct care
19 registered nurse-to-patient ratios for units not referred to in
20 subsections (b) and (d).

21 (i) The requirements established under this Section do not
22 apply during a declared state of emergency if a hospital is
23 requested or expected to provide an exceptional level of
24 emergency or other medical services.

25 (j) Nursing personnel from temporary nursing agencies
26 shall not be assigned to a patient care unit without having

1 demonstrated clinical and supervisory competence.

2 (k) The Department shall adopt rules prescribing the time
3 by which the requirements of this Section must be implemented.
4 That time shall be as soon as practicable after the effective
5 date of this Act, but in no event later than 2 years after the
6 effective date of this Act.

7 Section 25. Development and reevaluation of staffing plan.

8 (a) In developing the staffing plan, a hospital shall
9 provide for direct care registered nurse-to-patient ratios
10 above the minimum direct care registered nurse-to-patient
11 ratios required under Section 20 of this Act if appropriate,
12 based upon consideration of the following factors:

13 (1) The number and individualized needs of patients and
14 the acuity level of patients as determined by the
15 application of an acuity system on a shift-by-shift basis.

16 (2) The anticipated admissions, discharges, and
17 transfers of patients during each shift that impacts direct
18 patient care.

19 (3) Specialized experience required of direct care
20 registered nurses on a particular unit.

21 (4) Staffing levels and services provided by other
22 health care personnel in meeting direct patient care needs
23 not required by a direct care registered nurse.

24 (5) The level of technology available that affects the
25 delivery of direct patient care.

1 (6) The level of familiarity with hospital practices,
2 policies, and procedures by temporary agency direct care
3 registered nurses used during a shift.

4 (7) Obstacles to efficiency in the delivery of patient
5 care presented by physical layout.

6 (b) A hospital shall specify the system used to document
7 actual staffing in each unit for each shift.

8 (c) A hospital shall annually evaluate (i) its staffing
9 plan in each unit in relation to actual patient care
10 requirements and (ii) the accuracy of its acuity system and
11 shall update its staffing plan and acuity system to the extent
12 appropriate based on that evaluation.

13 (d) A hospital's staffing plan shall be developed, and
14 subsequent reevaluations shall be conducted, under this
15 Section by a review committee. At least half the members of the
16 review committee shall be unit-specific direct care registered
17 nurses who provide direct patient care. If direct care
18 registered nurses are represented under a collective
19 bargaining agreement, the appointment of those nurse members
20 shall be made by the authorized collective bargaining agent.

21 (e) A hospital shall submit to the Director its staffing
22 plan and any annual updates under subsection (c).

23 (f) Nothing in this Act shall be construed to permit
24 conduct prohibited under the National Labor Relations Act or
25 under the Federal Labor Relations Act.

1 Section 30. Protection of nurses and other individuals.

2 (a) A nurse may refuse to accept an assignment as a nurse
3 in a hospital if either of the following conditions apply:

4 (1) the assignment would violate the provisions of
5 Section 15, 20, or 25; or

6 (2) the nurse is not prepared by education, training,
7 or experience to fulfill the assignment without
8 compromising the safety of any patient or jeopardizing his
9 or her license.

10 The requirements of this subsection (a) shall apply to
11 refusals occurring on or after the effective date of this Act,
12 except that the requirements of paragraph (2) of this
13 subsection (a) shall not apply to refusals in any hospital
14 before the requirements of Section 15 of this Act apply to that
15 hospital.

16 (b) A hospital may not discharge, discriminate, or
17 retaliate in any manner with respect to any aspect of
18 employment, including discharge, promotion, compensation, or
19 terms, conditions, or privileges of employment, against a nurse
20 based on the nurse's refusal of a work assignment under
21 subsection (a). The requirements of this subsection (b) shall
22 apply to refusals occurring on or after the effective date of
23 the Act.

24 (c) A hospital may not file a complaint or a report against
25 a nurse with the appropriate State professional disciplinary
26 agency because of the nurse's refusal of a work assignment

1 under subsection (a). The requirements of this subsection (c)
2 shall apply to refusals occurring on or after the effective
3 date of this Act.

4 (d) Any nurse who has been discharged, discriminated
5 against, or retaliated against in violation of this Section may
6 bring an action in the circuit court seeking relief as
7 authorized in items (1) through (5) of this subsection. A nurse
8 who prevails in such an action shall be entitled to one or more
9 of the following:

10 (1) Reinstatement.

11 (2) Reimbursement of lost wages, compensation, and
12 benefits.

13 (3) Attorney's fees.

14 (4) Court costs.

15 (5) Other damages.

16 The requirements of this subsection (d) shall apply to
17 refusals occurring on or after the effective date of this Act.

18 (e) A nurse or other individual may file a complaint with
19 the Director against a hospital that violates the provisions of
20 this Act. For any complaint filed under this subsection, the
21 Director shall do all of the following:

22 (1) Receive and investigate the complaint.

23 (2) Determine whether a violation of this Act as
24 alleged in the complaint has occurred.

25 (3) If such a violation has occurred, issue an order
26 that the complaining nurse or individual shall not suffer

1 any retaliation in accordance with subsection (b), (c), or
2 (f).

3 (f) A hospital may not discriminate or retaliate in any
4 manner with respect to any aspect of employment, including
5 hiring, discharge, promotion, compensation, or terms,
6 conditions, or privileges of employment, against any
7 individual who, individually or in conjunction with another
8 person or persons, does any of the following:

9 (1) Reports a violation or a suspected violation of
10 this Act to the Director, a public regulatory agency, a
11 private accreditation body, or the management personnel of
12 the hospital.

13 (2) Initiates, cooperates, or otherwise participates
14 in an investigation or proceeding brought by the Director,
15 a public regulatory agency, or a private accreditation body
16 concerning matters covered by this Act.

17 (3) Informs or discusses with other individuals or with
18 representatives of hospital employees a violation or
19 suspected violation of this Act.

20 The requirements of this subsection (f) shall apply to
21 those actions set forth in paragraphs (1) through (3) of this
22 subsection (f) and occurring on or after the effective date of
23 this Act. The requirements of this subsection (f) shall apply
24 to initiation, cooperation, or participation in an
25 investigation or proceeding on or after the effective date of
26 this Act.

1 (g) Beginning 18 months after the effective date of this
2 Act, a hospital shall post in an appropriate location in each
3 unit a conspicuous notice in a form specified by the Director
4 that does each of the following:

5 (1) Explains the rights of nurses and other individuals
6 under this Section.

7 (2) Includes a statement that a nurse or other
8 individual may file a complaint with the Director against a
9 hospital that violates the provisions of this Act, and
10 provides instructions on how to file such a complaint.

11 Section 35. Penalties. The Director may impose
12 administrative penalties or suspend, revoke, or place
13 conditional provisions upon a license of a hospital for a
14 violation of any provision of this Act. The Department shall
15 adopt by rule a schedule establishing the amount of an
16 administrative penalty that may be imposed for any violation of
17 Section 15, 20, 25, or 30 of this Act when there is a
18 reasonable belief that safe patient care has been or may be
19 negatively impacted. Each violation of a staffing plan shall be
20 considered a separate violation of this Act. Before imposing a
21 penalty under this Section, the Director shall afford the
22 hospital an opportunity to request a hearing and present
23 evidence on the matter.

24 In addition to other moneys set aside and appropriated to
25 the Department for nursing scholarships awarded pursuant to the

1 Nursing Education Scholarship Law, revenues collected from
2 administrative penalties imposed under this Act shall be
3 allocated to the Department for that same purpose.".